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IN THE

SUPREME COURT OF THE

UNITED STATES

October Term 1965

No. 660

KENNETH L. JONES, ADMINISTRATOR

of the

ESTATE OF JOSEPH BALL, DECEASED

Petitioner

-vs-

THE UNITED STATES

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

To the Honorable Earl Warren, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Claims entered April 12, 1965 and denial of Motion for Amendment of court order July 16, 1965 entered in the above-entitled case.

Jurisdiction

The judgment of the Court of Claims was entered on April 12, 1965 without oral Argument, it was concluded that plaintiff's claim was barred by the statute of limitations. (28 U.S.C. 2501) The motion for amendment of Court Order was denied on July 16, 1965. The jurisdiction of this court is invoked under 28 U.S.C. 1255 (1).

Questions Presented

Whether the Act of April 28, 1796 (1 Stat. 485) affects, amends or repeals, or changes the terms and conditions of (Sec. 3 & 4, 13 & 15) of the Act of August 4, 1790 (Vol. 1 P. 138) and whether petitioner's claim is barred by 28 U.S.C. 2501?

Constitutional Provision Involved

Nor shall any person be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation (U.S. Const. Amend. 5.) The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. (U. S. Const. Amend (XIV Sec. 4) The Funding Act of August 4, 1790 (Vol. 1 P. 138) Sec. 3 and 4. (See Appendix A)

Statement

This suit was brought by petitioner in the Court of Claims under (The Funding Act of August 4, 1790) as contained in the Statutes at Large (Vol. 1 P. 138) for the payment of unpaid interest which, is payable on demand and, not the principal which, is to be paid at the pleasure of the

United States of America. The amount of the principal is $32,282.95 of stock authorized and issued by the United States of America, which is due the Estate of Joseph Ball deceased. The respondent asserted the Statute of Limitations as its defense. (See Act of April 28, 1796 (1 Stat. 458) (Act of March 3, 1863 (12 Stat. 767) (28 U.S.C. 2501)

That defense is expressly barred by Shepard's Table of Federal Acts of 1964 Entitled (The Funding Acts) August 4, 1790 C. 34 (1 Stat. 138) (Feb. 25, 1862 C. 33 (12 Stat. 345) (July 14, 1870 C. 256) (16 Stat. 272) Jan. 25, 1879 C. 24 (20 Stat. 265) Feb. 26. 1879 C. 102 (20 Stat. 321) March 14, 1900 C. 41 (31 Stat. 45)

These Acts were to refund the floating debt of the United States, such as, The loan of 1790 approved Aug. 4, 1790 Sec. 3 and 4, But does not change the terms of the said Act.

The index of the Federal Statutes, general and permanent law from 1789 to 1873 together with the table of repeals and amendments does not cite the Act of April 28, 1796 (1 Stat. 458) as a part of, amending or, affecting or, repealing the Act of August 4, 1790 in any way. The index cites the Act of August 4, 1790, and the terms thereof in full force and virtue in 1873.

The (History of the Currency of the Country and of the Loans of The United States) from the earliest period to June 30, 1896 prepared by William F. DeKnight, under the direction of J. Fount Tillman, Register of the Treasury of the United States (Treasury Dept. Doc. No. 1943) Office of the Register. (Appendix B) DeKnights' History (P. 33) as was prepared, under the direction of the Register of the Treasury, cites the terms of the Loan of 1790, Approved August 4, 1790 (Sec. 3, 4, 13, and 15) The length of loan indefinite; redeemable by payments not to exceed 8 percent per annum! Who would know the terms of a stock issue, that was issued by the United States Treasury Department, any better than the Register of the U. S. Treasury?

The table of Repeals and Amendments to the Federal Statutes proves by the law, that the Act of April 28, 1796 (1 Stat. 458) does not affect the Act of August 4, 1790 as setting a date of maturity on the loan of 1790, so therefore the Act of March 3, 1863 Sec. 10 (12 Stat. 767) and 28 U.S.C. 2501 are expressly barred, and the Statute of Limitations does not apply to petitioner's claim.

Reasons for Granting the Writ

The importance of the question

One of the great debates of the United States Congress assembled of 1790, concerned the importance of the public Credit and, the existing debt of the new nation, being a debt that was made, to establish America its freedom. (U.S. Constitution Amend. 14 Sec. 4) Under that provision, the validity of the public debt of the United States, authorized by law, shall not be questioned.

(Alexander Hamilton's Report to Congress (American State Papers Vol. I 1st Cong. No. 6 2D Session) That loans in times of public danger, especially from foreign war, are found an indespensable resource, even to the Wealthiest nation; and that, in a country which, like this, is possesed of little Active Wealth, or in other words, little moneyed Capitol; the necessity for that resource must in such emergencies be proportionably urgent; and as on the one hand, the necessity for borrowing, in particular emergencies cannot be doubted; so on the other, it is equally evident that to be able to borrow upon good terms, it is essential that the credit of a nation should be well established.

For when the credit of a country is in any degree questionable, it never fails to give an extravagant premium upon all the loans it has occasion to make. From this constant necessity of borrowing and buying dear, it is easy to conceive how immensly the expenses of a nation in a course of time will be by an unsound state of the public credit.–

Claims presented by petitioner is a part of the public debt authorized by law being a part of the first loan and funding act of the new government of United States of America, and therefore should not be questioned; and is an important question of federal law which has not been, but should be settled by the United States Supreme Court. The decision of this court will have a reflection upon the public credit of today.

Joseph Ball was a resident of Philadelphia, Pennsylvania and, deceased April 21, 1821 in Philadelphia, Pennsylvania. During his lifetime he purchased U. S. Stock that was authorized by the Funding Act of August 4, 1790. The Estate of Joseph Ball and, the heirs of Joseph Ball have been deprived of their Constitutional rights. (U. S. Const. Amend. V) Nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for

public use without just compensation. As the administrator of the Estate of Joseph Ball I have been denied a hearing and the right to be heard by a court.

In the Federal Code Annotated (Civil Remedies and Proceedings in General P. 482. A. 14 Sec. 1) The Due Process Clause in its procedural sense is a guarantee that, before one may be deprived of property, a hearing must be had before a judicial or quasi-judicial body according to established rules of law. (Morris Plan. Co. V. State, 73 Cal. App. (2d Series) 415, 166 Pac. (2D) 627

(Amend. 14 Sec. 1 P. 482) The right to notice and a hearing is one of ancient origin, and by the Due Process Clauses has been safe-guarded to all against deprivation by the federal and State governments. In Re (Central R. Co. (CCA3) 136 F (2D) 633

(Amend. 14 Sec. 1 P. 482) The Constitutional guarantee of due process of law is intended to protect the individual against the arbitrary exercise of government power and to secure equal protection of the law to all. LaPorte v. Bitker (DC-WIS) 55 FSU PP 882 AFF'd 145 F (2D) 445; Veron v. State 245 ALA 633, 18 SO (2D) 388.

Due Process of Law means notice, a hearing according to that notice, and a judgment entered in accordance with such notice and hearing. Garrett v. Reid 244 Ala. 254. 13 SO (2D) 97.

(Amend. 14 Sec. 1 P. 483) A court cannot deprive one who is not in default of a right of a right to be heard. Dolan v. Roy, 286 Mass. 519, 190 NE 717.

(Amend. 5 P. 155) As the Due Process Clauses of the federal Constitution safeguard private property against a taking for public use without just compensation, neither nation nor state may require the use of privately owned property without just compensation. California Water and Telephone Co. v. Railroad Commission, (DC—CAL) 19 FSU PP11.

Conclusion

Whether or not the Act of April 28, 1796 (1 Stat. 458) affects, amends or repeals, or changes the terms and conditions of (Sec. 3 & 4, 13 & 15) of the Act of August 4, 1790 (Vol. I P. 138) and whether petitioner's claim is barred by 28 U.S.C. 2501?

Is it constitutional that the United States of America has a right to put a limitation upon the public debt without the consent of the holder or holders of such securities that, constitute a part of the public debt?

For all the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

Respectfully submitted,

Kenneth L. Jones

KENNETH L. JONES, Administrator
of the Estate of Jospeh Ball, deceased
9076 Madison Rd., Middletown, Ohio

APPENDIX A

The Funding Act of August 4, 1790 Sec. 3. Be it therefore further enacted, that a loan to the full amount of the said domestic debt be, and the same is hereby proposed; and that books for receiving subscriptions to the said loan be opened at the treasury of the United States, and by a commissioner to be appointed in each of the said states, on the first day of October next, to continue open until the last day of September following inclusively; and that the sums which shall be subscribed thereto, be payable in certificates issued for the said debt, according to their specie value, and computing the interest upon such as bear interest to the last day of December next, inclusively; which said certificates shall be of these several descriptions, to wit:

Those issued by the register of the treasury.

Those issued by the commissioners of loans in the several states, including certificates given pursuant to the act of Congress of the second of January; one thousand seven hundred and seventy-nine, for bills of credit of the several emissions of the twentieth of May, one thousand seven hundred and seventy-seven, and the eleventh of April, one thousand seven hundred and seventy-eight.

Those issued by the commissioners for the adjustment of the account of the quartermaster, commissary, hospital, clothing, and marine departments.

Those issued by the commissioners for the adjustment of accounts in the respective states.

Those issued by the late and present paymaster-general, or commissioner of Army accounts.

Those issued for the payment of interest commonly called indents of interest.

And on the bills of credit issued by the authority of the United States in Congress assembled, at the rate of one hundred dollars in the said bills for one dollar in specie.

Sec. 4 And be it further enacted, that for the whole or any part of any sum subscribed to the said loan by any person or persons, or body politic, which shall be paid in the principal of the said domestic debt, the subscriber or subscribers shall be entitled to a certificate, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns a sum to be expressed therein, equal

to two thirds of the sum so paid, bearing an interest of six per centum per annum, payable quarter yearly, and subject to redemption by payments not exceeding in one year, on account both of principal and interest the proportion of eight dollars upon a hundred of the sum mentioned in such certificate; and to another certificate purporting that the United States owe to the holder or holders thereof, his, her or their assigns, a sum to be exprsesed therein, equal to the proportion of thirty-three dollars and one third of a dollar upon a hundred, of the sum so paid, which after the year one thousand eight hunded shall bear an interest of six per centum per annum, payable quarter yearly, and subject to redemption by payment not exceeding in one year, on account both of principal and interest, the proportion of eight dollars upon a hundred of the sum mentioned in such certificate: Provided, That it shall not be understood that the United States shall be bound or obliged to redeem in the proportion aforesaid; but it shall be understood only that they have a right so to do.

APPENDIX B

HISTORY
of the
CURRENCY OF THE COUNTRY AND OF THE LOANS OF THE UNITED STATES
from the
Earliest Period to June 30, 1896

prepared by
WILLIAM F. DE KNIGHT
(Office of the Register)
Under the direction of
J. FOUNT TILLMAN,
Register of the Treasury

WASHINGTON:
Government Printing Office.
1897.

TREASURY DEPARTMENT,
Document No. 1943.
Office of the Register.

HISTORY OF THE CURRENCY OF THE COUNTRY.

(page 33)

tions made by the act. The contract for the loan provided for its repayment upon similar terms as the preceding loan from the Bank of New York, the revenues derived from duties on imports and tonnage being pledged for its redemption. The money was needed for the compensation of Members and employees of the Congress, the payment of the salaries of the civil list, etc., and of arrears of interest on the Dutch loans.

There was in the Treasury at the time a sum not exceeding $50,000.

HOLLAND LOAN OF 1790. (ACTS OF AUGUST 4 AND 12, 1790, SECTIONS 2 AND 4, RESPECTIVELY.)

Length of loan, ten to fifteen years; redeemable by lot, in five equal annual installments, from February 1, 1800; amount authorized, $14,000,000; amount issued, $1,200,000; sold at par (Bayley, considering commission and expenses, says "sold at 95½ per cent."); interest, 5 per cent., payable annually; first issue, first calendar quarter of 1790; final redemption, first calendar quarter of 1804.

The act of August 4, 1790, authorized a loan of not exceeding $12,000,000, to be applied to paying, in whole or in part, the foreign debt of the United States. The act of August 12, 1790, authorized a loan of not exceeding $2,000,000, to be applied to the purchase of the debt of the United States; rate of interest, in the first instance not limited, in the second not to exceed 5 per cent. The charges for commission and expenses were fixed by contract at 4½ per cent. on the principal.

SIX PER CENT., THREE PER CENT., AND DEFERRED SIX PER CENT. STOCKS OF 1790.

(ACT OF AUGUST 4, 1790, SECTIONS 3, 4, 13 AND 15.)

Length of loans, indefinite; redeemable by payments not to exceed 8 per cent. per annum; amount authorized, indefinite; amount issued, of Six per cents., $30,088,397.75, of Three per cents., $19,719,237.39, of Deferred six per cents, $14,649,328.76; total, $64,456,963.90; sold at par; interest, 6 and 3 per cent., payable quarterly; first issue, Six per cents.,

(page 33, continued)

January 1, 1791; Three and Deferred six per cents., January 1, 1800. Amount outstanding June 30, 1896, $27,869.77, $13,953.13, and $13,934.90, respectively; total $55,757.80.

These loans provide for the funding of the domestic debt. Subscriptions were to consist of the certificates issued under the authority of the Continental Congress, and by the respective States, the same to be received at rates scaled greatly below their face value. The amount outstanding is included in the Finance Report under the title of "Old Debt."

Of the Three per cents., in 1807 and 1808, $2,861,309.15 was redemed by $1,859,850.70 of the Converted six per cent. stock of 1807, the discount amounting to $1,001,458.45. Of the Six per cents. and Deferred six per cents., in 1807 and 1808, $6,294,051.12 was redeemed by an issue of Exchanged six per cent. stock of 1807, and in 1812 and 1813, $2,984,746.72 by an isue of Exchanged six per cent. stock of 1812, at par; total, $9,278,797.84.

COPY OF OBLIGATION.

Six per cent. stock of 1790.

(No. ....) United States Loan Office,

State of ...., ..., 17...

Be it known, that there is due from the United States of America unto ..... or ..... assigns, the sum of ....., bearing interest at six per cent. per annum, from the first day of January, 1791, inclusively, payable quarter-yearly, and subject to redemption by payments, not exceeding in one year, on account both of principal and interest, the proportion of Eigh Dollars upon a Hundred of the stock bearing interest at six per cent.; created by virtue of an act, making provision for the debt of the United States, passed on the fourth day of August, 1790, which debt is recorded in this office, and is transferable only by appearance in person, or by attorney, at the proper office, acording to the rules and forms instituted for that purpose.

.... Dollars. ....

IN THE UNITED STATES COURT OF CLAIMS

No. 184-64

KENNETH L. JONES, ADMINISTRATOR OF THE ESTATE OF JOSEPH BALL, DECEASED

v.

THE UNITED STATES

ORDER

This case comes before the court on defendant's motion for summary judgment. Upon consideration thereof, together with the opposition thereto, and without oral argument, it is concluded that plaintiff's alleged claim is barred by the statute of limitations, 28 U. S. C. § 2501, and

IT IS ORDERED that defendant's motion for summary judgment be and the same is granted, and plaintiff's petition is dismissed.

BY THE COURT

Wilson Cowen
Chief Judge

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PAGE

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 660

KENNETH L. JONES, PETITIONER

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court of Claims

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

An Act of August 4, 1790 (1 Stat. 138) authorized the issuance by the United States of stock bearing interest of six percent per annum. Two-thirds of the stock so issued was to bear interest immediately; the remaining third was to bear interest beginning in the year 1801. The statute authorized the government to redeem annually up to eight percent of the accrued value of the stock. By an Act of April 28,

1796, Congress fixed the final redemption dates of these two types of six percent stock as 1818 and 1824, respectively. 1 Stat. 458.

On June 15, 1964, petitioner instituted this action in the Court of Claims alleging that he was the administrator of the estate of one Joseph Ball, who had purchased some of this stock in 1791, 1794 and 1797, and who had died without redeeming it in 1821. The court dismissed the petition on the government's motion for summary judgment on the ground that the claim was barred by the applicable statute of limitations.

This decision was plainly correct and does not require review by this Court. The 1796 Act fixed 1818 and 1824 as the maturity dates of the stock, and it is well established that a claim based upon such an obligation accrues, for limitations purposes, when the obligation to repay matures. *Clark* v. *Iowa City*, 20 Wall. 583; *Amy* v. *Dubuque*, 98 U.S. 470. Since 28 U.S.C. 2501 provides a six-year limitations period, petitioner has made his claim more than 130 years too late.[1]

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[1] The first statute providing a limitations period for actions brought in the Court of Claims was passed in 1863. See 12 Stat. 767 (Section 10). It established a six-year limitation period but provided that "claims which have accrued six years before the passage of this act" would not be barred if brought within three years after the statute was enacted. If that provision was intended to apply to claims more than six years old (rather than to claims accruing *within* six years before its passage), the time within which such claims could be made expired in 1866.

Nor is there substance to petitioner's contention that the Act of 1796 did not or could not affect obligations incurred under the Act of 1790. Sections 1 and 2 of the 1796 statute explicitly relate to "funded stock * * * bearing a present interest of six per centum per annum" and "funded debt * * * upon which an interest of six per centum per annum will commence * * * in the year [1801]"—precisely the kinds of stock involved under the 1790 Act. And since the 1790 statute authorized annual redemption of up to eight percent of the stock's accumulated value, the 1796 Act did not unconstitutionally or unfairly abrogate the rights of purchasers of the stock by fixing a final redemption date 22 or 28 years thereafter.[2]

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

NOVEMBER 1965

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[2] Petitioner appears to object, as well, to the Court of Claims' disposition of this case without argument or opinion. The court's order, however, distinctly stated its reason for dismissing the petition, and the court's rules provide that motions for summary judgment may be acted upon without argument. Ct. Cl. Rule 65(b)(2). Petitioner was not entitled to oral argument on the motion for summary judgment where, as here, only narrow issues of law were presented. See, *Federal Communications Commission* v. *WJR*, 337 U.S. 265, 274-277. Compare *Londoner* v. *Denver*, 210 U.S. 373.

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IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1965

No. 660

KENNETH L. JONES, PETITIONER

V.

THE UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF CLAIMS

A BRIEF FOR PETITIONER IN REPLY TO THE MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The Act of August 4th, 1790 (1 Stat. § 138) authorized the issuance of stock by the United States bearing interest of 6 percent per annum. The statute also authorized the United States to pay the holder or holders of this stock 6 percent interest quarterly and payable on demand, but in no way was the United States bound or obliged to redeem the principal, but it was understood only that they had a right so to do. This was the only redemption plan approved by the Act of August 4th, 1790.

(American State Papers Finance Vol. V) 19th Congress No. 755, 1st Session: Unclaimed Dividends on the Public Debt communicated to the House of Representatives March 25th, 1826. The unclaimed dividends on the funded debt of the United States had been accumulating. The Committee on Ways and Means asked the Secretary of the Treasury to give reasons as to why. One of these reasons was that the dividends were payable only in Washington according to the provision of the Act of August 4th, 1790.

This proves the United States Treasury was still paying interest on the funded debt authorized by the Act of August 4th, 1790, in 1826, that, respondent alleges to have accrued in 1818 and 1824. The United States Congress and the United States Treasury were still going by the provisions of the Act of August 4th, 1790 in 1826, thirty years past the Act of April 28th, 1796. Respondent has alleged to put maturity dates on the loan of 1790.

Furthermore the respondent has alleged that the Act of April 28, 1796 caused the domestic funded 6 percent stock to accrue in 1818. How could the domestic funded debt accrue in 1818, when the amount of the domestic funded debt on January 1, 1822 was $93,957,665.14.

(American State Papers) 17th Congress No. 666, 2nd Session: The Commissioners of the Sinking Fund respectfully report to Congress. Payment of certain parts of the domestic debt, $54.45 in 1821, $438.99 in 1822. In 1823 interest on the domestic funded debt $5,154,268.26: Amount of the funded debt on January 1st, 1822 per statement H which accompanied report of February 1822, $93,957,665.14.

In the ledger accounts for the loan of 1790, approved August 4th, 1790, housed in the National Archives, Room 5 E — names of subscribers and transfers were being entered in ledger E, Vol. $\frac{54}{2}$ past 1818 and 1824. The ledgers are the Old Loan Records of the Bureau of the Public Debt. Why would the Register of the Treasury accept subscribers and transfers of a stock that had already accrued?

Petitioner submits that the Act of April 28, 1796, Sections 1 and 2 relate to funded stock that the individual states purchased from the United States, but does not relate to individuals or private citizens of the United States who purchased 6 percent stock of the loan of 1790. Sections 3 and 4 of the said Act explicitly states "— as stand to the credit of certain states in consequence of an Act passed on the 31st day of May, 1794, and with the consent of the said states". Section 4 "— to reimburse and pay the said balance standing to the credit of certain states, in the manner herein before prescribed and directed".

Joseph Ball and the heirs of Joseph Ball have waited one hundred and seventy-one years to collect a debt the United States has been well aware of. Amend. V of the United States Constitution guarantees protection of private property to all citizens. From 1790 until Joseph Ball deceased April 21st, 1821, there was no way he could collect the moneys due him. (American State Papers Finance Vol. II P. 883): Every creditor is entitled to be paid according to the term of contract and, every creditor must accept whatever the Treasury is able to offer.

For all the foregoing reasons, petitioner respectfully prays that a writ of certiorari be granted.

Respectfully submitted

Kenneth L. Jones

Kenneth L. Jones
Administrator of the Estate of Joseph Ball, deceased
9076 Madison Road, Middletown, Ohio

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IN THE
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No. 660

KENNETH L. JONES, ADMINISTRATOR
of the
ESTATE OF JOSEPH BALL, DECEASED
Petitioner

vs.

THE UNITED STATES
Respondent

A PETITION FOR A REHEARING TO THE U. S. SUPREME COURT

To the Honorable Earl Warren, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States.

Petitioner respectfully prays that a rehearing be granted to review the judgment of the United States Court of Claims entered April 12, 1965 and, denial of motion for Amendment of Court Order July 16, 1965, and the denial of the petition for writ of certiorari on January 17, 1966, entered in the above entitled case.

Question Presented

Whether the statute of limitations applies to petitioner's claim based on the Act of August 4th, 1790 and the Constitution of the United States of America Amendment V and XIV, Secs. 1 and 4?

Constitutional Provisions Involved

"Nor shall any person be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation. (U. S. Constitution Amend. V)

"Nor shall any State deprive any person of life, liberty, or property, without due process of law. (U. S. Constitution Amend. XIV, Sec. 1)

The Validity of the Public debt of the United States, authorized by law, shall not be questioned. (U. S. Constitution Amend. XIV, Sec. 4)

Constitutional Law §786 Due Process — hearing
The Maxim "Audi Alteram Partem"—hear the other side—is a command, spoken with the voice of the due process clause of the Fourteenth Amendment against state governments and their executive, legislative and judicial branches, whenever any individual, however lowly and unfortunate asserts a legal claim. (From separate opinion by Frangfurter J.) United States Supreme Court Reports, Lawyers Edition 2 L. ED. 2D U. S. 355-357

Article VI of the U. S. Constitution

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

Statement

This suit was brought by petitioner, in the Court of Claims under (The Funding Act of August 4, 1790) as contained in the Statutes at Large (Vol. I P. 138) for the payment of unpaid interest which, is payable on demand and the principal which, is to be paid at the pleasure of the United States of America. The amount of the principal is $32,282.95 of stock that was authorized and issued by the United States of America, which was purchased by Joseph Ball, the interest being due the Estate of Joseph Ball, deceased. The respondent asserted the Statute of Limitations as it's only defense (Act of April 28, 1796 (1 Stat. 458) and 28 U. S. C. 2501.

Shephard's United States Citation Statutes P. 448 Department Reports, 1943 Edition (United States Statutes at Large (not in U. S. Code) Aug. 4, 1790 Ch. 34, 1 st. 138, Sq 1 st. 281, 79 US 627, 20 LE 337, 1 st. 190, 1 st. 213, 1 st. 214, 1 st. 228, § 3 § 36 US 328K, 9 LE 933, § 4 § 96 US 606, 24 LE 798 § 13 § 79 US 627, 20 LE 337, of which are the opinions and rulings of the U. S. Supreme Court.

Article I, Sec. 8, U. S. Constitution

By the powers of the Constitution, Congress may borrow money upon the faith of the United States pledged. (20 LE 337) Financial measures of various kinds for borrowing money to supply the wants of the Treasury, beyond the receipts from taxation and the sales of the public lands; have been adopted by the government since the United States became an independent nation. Subscriptions for a loan of $12,000,500.00 were on the 4th of August 1790, directed to be opened at the Treasury, to be made payable in certificates issued for the debt, according to their specie value. 1 Stat. at Large 139. Measures of the kind were repeated in rapid succession for several years, and laws providing for loans in one form or another appear to have been the preferred mode of borrowing money.

Joseph Ball was a subscriber to the said loan and was issued a contract drawn up by the United States of America, and agreed upon by both parties, as per (P. 340 LE 20). The transaction is completed when the lender has parted with his money, and the borrower has given promise of repayment at the time, and in the manner, and with the securities stipulated between them. It is evident Joseph Ball consented to the terms of the Funding Act of August 4th, 1790, or he

wouldn't have been a purchaser of the obligation. 20 LE P. 350 "To restore public confidence completely" says Chief Justice Marshall, "it was necessary not only to prohibit the use of particular means by which it might be effected, but to prohibit the use of any means by which the same mischief might be produced. The Convention appears to have intended to establish a great principal, that contracts should be inviolable." STURGIS V. CROWNSHIELD, 4 WHEAT. 206.

The power of Congress to interfere with Contracts for the payment of money is not greater or in any particular different from its power with respect to contracts for lands or goods. The contract is not fulfilled any more in one case than in the other by the delivery of a thing which is not stipulated, because by legislative action it is called by the same name. Words in contracts are to be construed in both cases in the sense in which they were understood by the parties at the time of the contract. 20 LE P. 350

20 LE P. 339 "It was hoped that it had settled forever that under a Constitution ordained, among other things, "to establish justice," legislation giving to one person the right to discharge his obligations to another by nominal instead of actual fulfillment could never be justified.

Public Credit and Confidence between man and man were destroyed. Nearly all the States issued their own bills of credit. Only 1 percent of the continental money was assumed by the United States of America. Act of Aug. 4, 1790 Sec. 4, Stat at Large 140 (24 LE 798). No sooner did the new government begin its auspicious course than order seemed to arise out of confusion. Commerce and industry awoke, and were cheerful at their labors for credit and confidence awoke with them. Everywhere was the appearance of prosperity, and the only fear was that its progress was too rapid to consist with the purity and simplicity of ancient manners."

Fisher Ames Works supra. 122

Public Credit was reanimated. The owners of property and holders of money freely parted with both, well knowing that no future law could impair the obligation of the contract." 2 Ramsey, Hist. sup. 433

20 LE 352 Legal Lender Cases

What is this but declaring that repudiation by the government of the United States of its solemn obligations

would be Constitutional? Whenever the fulfillment of the obligation in the manner stipulated is refused, and acceptance of something different from that stipulated is enforced against the will of the creditor, a breach of faith is committed; and to the extent of the difference of value between the thing stipulated and the thing which the creditor is compelled to receive, there is repudiation of the original obligation. I am not willing to admit that the Constitution, the boast and glory of our country, would sanction or permit any such legislation. Repudiation in any form, or to any extent, would be dishonor, and for the commission of this public crime no warrant, in my judgment, can ever be found in that instrument.

Joseph Ball was given a contract of 6% Interest of United States Stock purchased by him. The interest being payable quarter yearly and that the interest payment would be made wheresoever the credit of the stock shall exist on the books at the time such interest shall become due. After the expiration of the third quarter the interest was demandable only at the treasury. At no time was he to receive any more than eight dollars per hundred on account of both principal and interest.

The faith of the United States was hereby pledged to provide and appropriate hereafter such additional and permanent funds as may be requisite towards supplying any such deficiency, and making full provision for the payment of the interest which shall accrue on the stock to be created by virtue of the loans aforesaid, in conformity to the terms thereof respectively, and according to the tenor of the certificates to be granted for the same pursuant to this act.

Joseph Ball could have brought his contract in and, exchanged it for any other issue that Congress authorized, but it would have to be of his own consent, and not compelled by an act of Congress. Any other law or other contract would impair the obligation of the contract which would be in violation of the Constitution. (20 LE 339) 20 LE 350 (24 LE 796) 9 LE 933 20 LE 352

Marbury v. Madison I Cranch (5 US) 1372, 2 LEO

If then the courts are to regard the constitution; and the Constitution is superior to any ordinary act of the legislature; the Constitution, and not such ordinary act, must govern the case to which they both apply.

It is my claim that Joseph Ball possessed contracts in the amount of $32,282.95 that was authorized and issued by

the U. S. Congress Assembled, and the conditions of the contract stipulated by the U. S. Congress in the Act of August 4, 1790, and agreed to by Joseph Ball when purchasing the said contracts. I am only asking the Supreme Court to enforce the terms of the said contracts between Joseph Ball and the United States as specified in the Funding Act of August 4, 1790. Any other law would be unconstitutional, and would violate the rights of the creditor that, is guaranteed by the U. S. Constitution.

The U. S. Supreme Court has ruled and upheld in Edwards v. Kearzey in 1878 (24 LE 794 § 800). Briscoe et. al. v. The Commonwealth Bank of Kentucky (9 LE 928-938) and, Knox v. Lee and Parker v. Davis in 1870 (20 LE 336-354) that when a contract is agreed upon by two parties, no future law can change that contract. It is apparent by the U. S. Supreme Court rulings in these cases mentioned that, the Court has already ruled and held that, the Act of August 4, 1790, as a sacred contract, being bound by the Constitution and is to be upheld by both debtor and creditor. It is upon these grounds that I am asking the court for a rehearing. In Marbury v. Madison (5 US) 1372, 2 LE The Court has ruled that the Constitution is superior to any ordinary act of the legislature and that the Constitution must govern the case to which they both apply.

It is a known fact that racketeers, gangsters and even Communist stands upon the Constitution of the United States, because it is a protection of law under the fifth Amend. It is also my Constitutional right as an American citizen, asserting a legal claim against the United States, that I be granted a hearing before a judicial body, since I have never been heard or given the opportunity to present my claim properly before a Court.

I am not a lawyer, and I may not know how to argue my case elaborately, but nevertheless, as the U. S. Supreme Court has ruled in (2 L ED. 20 US. 355-357) hear the other side, is a command spoken, with the voice of the due process clause of the Fourteenth Amendment, whenever any individual, however lowly and unfortunate, asserts a legal claim. Constitutional law §786.

Conclusion

Whether the Act of April 28, 1796 can change the terms and conditions of a contract that was made in the Act of August 4, 1790, by the Congress of the United States, and ac-

cepted by a creditor, knowing that no future law could change or impair the terms of that contract, as is guaranteed by the Constitution of the United States.

For all the foregoing reasons petitioner prays that this petition for a rehearing be granted.

Respectfully submitted,

Kenneth L. Jones

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